

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

NICHOLE LEIB, KEVIN BROKENSHERE, and DIANE WEIGLEY, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

GEISINGER HEALTH and EVANGELICAL COMMUNITY HOSPITAL,

Defendants.

JESSICA SAUER, individually and on behalf of all others similarly situated,

Plaintiff,

v.

GEISINGER HEALTH and EVANGELICAL COMMUNITY HOSPITAL,

Defendants.

Case No. 4:21-cv-00196-MWB

Case No. 4:21-cv-00263-MWB

DECLARATION OF ERIC L. CRAMER, ESQ.

I, Eric L. Cramer, Esq., hereby declare as follows:

1. I am Chairman and a Managing Shareholder in the law firm of Berger Montague PC, counsel for Plaintiffs Nichole Leib, Kevin Brokenshire, and Diane Weigley in *Leib, et al. v. Geisinger Health, et al.*, 4:21-cv-00196-MWB (M.D.

Pa.). I am a member in good standing of the State Bars of Pennsylvania and New York and was admitted *pro hac vice* in this matter on February 11, 2021. I make this declaration on my own personal knowledge, and if called as a witness to testify, I could and would testify competently to the following facts.

2. I make this declaration in support of Plaintiffs' Unopposed Motion for Entry of Case Management Order No. 1 ("CMO No. 1") seeking to: (1) consolidate *Leib, et al. v. Geisinger Health, et al.*, 4:21-cv-00196-MWB (M.D. Pa.) and *Sauer v. Geisinger Health, et al.*, 4:21-cv-00263-MWB (M.D. Pa.), pursuant to Fed. R. Civ. P. 42(a), and create a consolidated docket for any actions that are based on substantially the same facts and allegations against Defendants Geisinger Health and Evangelical Community Hospital ("Defendants") that may subsequently be filed in, transferred to, or removed to this Court; and (2) appoint Berger Montague PC and Cotchett, Pitre & McCarthy, LLP ("Proposed Co-Lead Class Counsel") as Interim Co-Lead Class Counsel for the proposed Class in the consolidated action, pursuant to Fed. R. Civ. P. 23(g).

3. In August 2020, attorneys at Berger Montague PC and Cotchett, Pitre & McCarthy, LLP began investigating allegations that Defendants agreed not to recruit or hire each other's physicians, nurses, psychologists, therapists, and other healthcare professionals ("Healthcare Workers"). As part of that investigation, both firms conducted research into Healthcare Workers, analyzed the labor market for

Healthcare Workers in Central Pennsylvania, and studied Defendants' respective business models and history of coordination. On February 3, 2021, Berger Montague PC and Cottchett, Pitre & McCarthy, LLP filed the first complaint in this case on behalf of Nichole Leib, Kevin Brokenshire, and Diane Weigley, three registered nurses who have collectively worked for Defendants for more than two decades. *Leib, et al. v. Geisinger Health, et al.*, 4:21-cv-00196-MWB (M.D. Pa.), ECF No. 1. On February 12, 2021, Jessica Sauer, who worked for Defendant Geisinger as a nursing assistant in 2019-2020, filed the second case. *Sauer v. Geisinger Health, et al.*, 4:21-cv-00263-MWB (M.D. Pa.), ECF No. 1.

4. Attached hereto as **Exhibit 1** is a short firm profile focusing on our antitrust practice.

5. Berger Montague PC pioneered the antitrust class action and has been engaged in the practice of complex and class action litigation for 50 years. Since its founding by David Berger—widely considered one of the “fathers of the class action practice”—Berger Montague PC has been a leading national advocate for clients and class members in many of the most important complex antitrust cases ever litigated, including, more recently, the largest private antitrust settlement ever achieved (approximately \$5.62 billion) in the *Payment Card Interchange Fee & Merchant Discount Antitrust Litig. (In re Payment Card)*, MDL No. 1720

(E.D.N.Y.). Berger Montague PC has won verdicts and settlements recovering over \$40 billion for clients and class members.

6. The U.S. edition of *The Legal 500* has recommended Berger Montague as a “Top Tier Firm” for representing plaintiffs in antitrust class action litigation and describes the firm as “excellent,” “easy to deal with,” and “noted for the depth of its team.” The Firm has also appeared on *The National Law Journal’s* “Hot List” of the Top Plaintiffs’ Law Firms in the United States in twelve of the last fifteen years the list was compiled (from 2003–2017). Beginning in 2018 and each year thereafter, *The National Law Journal* and Law.com have included Berger Montague PC in its list of “Elite Trial Lawyers” recognizing law firms that “have done exemplary and cutting-edge work on behalf of their clients and are established leaders in the area of plaintiff law.” Similarly, *Chambers & Partners* has repeatedly named the Firm a leading antitrust law firm for many years. In 2020, Law360 named Berger Montague “2020 Competition Practice Group of the Year.”

7. The Firm has extensive experience litigating complex cases in the health care industry, including over a dozen antitrust cases involving pharmaceuticals and vaccines. The firm also has extensive experience representing classes of workers in antitrust cases. For instance, Berger Montague lawyers, including those involved in this case, served as class counsel in *In re*

High Tech Employee Antitrust Litig., No. 11-cv-2509 (N.D. Cal.), resulting in settlements totaling \$435 million for tech industry employees whose compensation was suppressed through illegal no-poach agreements. The firm has also served as co-lead counsel in *Johnson v. Arizona Hospital & Healthcare Association*, No. 07-cv-1292 (D. Ariz.), which resulted in settlements totaling more than \$23 million for nurses whose wages were suppressed through illegal wage-fixing agreements—settlements that also instituted critical safeguards protecting class members from any reoccurrence of the anticompetitive conduct. The Firm is currently serving as co-lead class counsel in the following antitrust actions alleging that workers’ compensation was suppressed through anticompetitive conduct, including “no poach” agreements:

- *Le v. Zuffa, LLC*, No. 15-cv-01045 (D. Nev.) (representing a class of professional mixed martial arts fighters alleging that the Ultimate Fighting Championship used an anticompetitive scheme to suppress athlete compensation);
- *In re: Broiler Chicken Grower Antitrust Litig.*, MDL No. 6:20-2977-RJS-CMR (E.D. Okla.) (representing a proposed class of broiler chicken growers alleging that chicken broiler integrator firms conspired to suppress grower compensation through “no poach” agreements and information sharing); and
- *Giordano, et al. v. Saks Incorporated, et al.*, No. 1:20-cv-00833 (E.D.N.Y.) (representing a proposed class of luxury retail employees alleging that employers conspired to suppress employee compensation through “no poach” agreements).

Berger Montague has also been named lead counsel or co-lead counsel in more than 100 actions alleging that classes of workers were not paid the compensation they were owed under relevant employment statutes.

8. I am the Chairman of my Firm and the Co-Chair of its antitrust department. I was recently deemed a “Titan of the Plaintiffs’ Bar” by Law360. In 2019, the National Law Journal awarded me the Keith Givens Visionary Award, which honors an outstanding trial lawyer who has moved the industry forward through his or her work within the legal industry ecosystem, demonstrating excellence in all aspects of work from the client advocacy to peer education and mentoring. In 2018, *Best Lawyers* named me Philadelphia’s antitrust “Lawyer of the Year,” and in 2017, I won the American Antitrust Institute’s Antitrust Enforcement Award for Outstanding Antitrust Litigation Achievement in Private Law Practice. *Chambers & Partners* has repeatedly ranked me in the top tier in the field of antitrust nationally; since 2011, *The Legal 500* has selected me as one of the country’s top lawyers in the field of complex antitrust litigation. *Chambers & Partners* has observed that I am “really a tremendous advocate in the courtroom, with a very good mind and presence.”

9. I have prosecuted multiple complex antitrust matters and am responsible for winning numerous significant settlements for clients and class members totaling over \$3 billion. Recently, I achieved substantial settlements in

multiple antitrust class actions while serving as Co-Lead Counsel, including, *e.g.*, *In re Dental Supplies Antitrust Litig.*, No. 1:16-cv-696 (E.D.N.Y.) (price-fixing case against dental supplies distributors that resulted in an \$80 million settlement); *In re Domestic Drywall Antitrust Litig.*, No. 13-md-2437 (E.D. Pa.) (price fixing case against drywall manufacturers that resulted in settlements totaling more than \$190 million); *Castro v. Sanofi Pasteur, Inc.*, No. 11-cv-7178 (D.N.J.) (\$61.5 million settlement in antitrust matter involving the monopolization of pediatric meningitis vaccines); *Marchbanks Truck Service Inc. v. Comdata Network, Inc.*, No. 07-1078 (E.D. Pa.) (\$130 million in cash settlement plus valuable prospective relief in antitrust case relating to the over-the-road fleet payment card market).

10. I am currently serving as co-lead counsel in multiple class actions representing workers claiming that anticompetitive practices have suppressed their pay, including cases on behalf of mixed martial arts fighters, luxury retail workers, and chicken growers. *See Le v. Zuffa, LLC*, No. 15-cv-01045 (D. Nev.); *In re: Broiler Chicken Grower Antitrust Litigation*, MDL No. 6:20-2977-RJS-CMR (E.D. Okla.); *Giordano, et al. v. Saks Incorporated, et al.*, No. 1:20-cv-00833 (E.D.N.Y.).

11. I am managing this case on a day-to-day basis for Berger Montague along with Shanon J. Carson, Daniel J. Walker, and Mark R. Suter. Attached hereto as **Exhibit 2** are true and correct copies of the biographies of these

accomplished Berger Montague attorneys we are proposing to serve as interim co-lead counsel for the Proposed Class.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 5th day of March 2021, in Philadelphia, Pennsylvania.

/s/*Eric L. Cramer*